

Assembly Bill No. 1541

CHAPTER 913

An act to add Sections 12922 and 12926.2 to the Government Code, relating to discrimination.

[Approved by Governor October 9, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1541, Keeley. Employment discrimination: religious entities.

Existing provisions of the California Fair Employment and Housing Act prohibit various unlawful employment practices and impose certain obligations upon employers with respect to specified employment discrimination and harassment. Existing provisions of the act make it a misdemeanor for employers willfully to fail to maintain certain employment records for at least 2 years. Under existing law, employers subject to the act do not include religious associations and corporations that are not organized for private profit.

This bill would add definitions of "religious corporation" and "religious duties" to the act. The bill would expressly provide that the act does not prevent religious corporations from restricting eligibility for positions involving religious duties to adherents of that religion. The bill would impose a state-mandated local program by limiting the act's exemption for employers that are religious associations or corporations not organized for private profit to make the exemption inapplicable with respect to persons employed thereby to perform duties, other than religious duties, at a health care facility operated by the religious corporation or association at which health care is not limited to adherents of the religion that formed the association or corporation. The bill would, however, make the act inapplicable to (1) religious corporations with respect to the employment and promotion of individuals of a particular religion, and application of the employer's religious doctrines, tenets, or teachings, in any work connected with the provision of health care and (2) nonprofit public benefit corporations incorporated to provide health care on behalf of a religious organization with respect to employment and promotion of individuals in executive or pastoral-care positions connected with the provision of health care.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 12922 is added to the Government Code, to read:

12922. Notwithstanding any other provision of this part, an employer that is a religious corporation may restrict eligibility for employment in any position involving the performance of religious duties to adherents of the religion for which the corporation is organized.

SEC. 2. Section 12926.2 is added to the Government Code, to read:

12926.2. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) “Religious corporation” means any corporation formed under, or otherwise subject to, Part 4 (commencing with Section 9110) or Part 6 (commencing with Section 10000) of Division 2 of Title 1 of the Corporations Code, and also includes a corporation that is formed primarily or exclusively for religious purposes under the laws of any other state to administer the affairs of an organized religious group and that is not organized for private profit.

(b) “Religious duties” means duties of employment connected with carrying on the religious activities of a religious corporation or association.

(c) Notwithstanding subdivision (d) of Section 12926 and except as otherwise provided in paragraph (1) or (2), “employer” includes a religious corporation or association with respect to persons employed by the religious association or corporation to perform duties, other than religious duties, at a health care facility operated by the religious association or corporation for the provision of health care that is not restricted to adherents of the religion that established the association or corporation.

(1) “Employer” does not include a religious corporation with respect to either the employment, including promotion, of an individual of a particular religion, or the application of the employer’s religious doctrines, tenets, or teachings, in any work connected with the provision of health care.

(2) “Employer” does not include a nonprofit public benefit corporation incorporated to provide health care on behalf of a religious organization under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, with respect to employment, including promotion, of an individual of a particular religion in an executive or pastoral-care position connected with the provision of health care.



SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

